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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Defendant.

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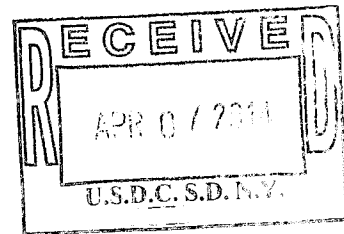
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COMPLAINT



1. This is an action for a declaratory judgment adjudging and determining that “Borderland,” a United States documentary television series produced for Al Jazeera and in which Al Jazeera owns all right, title, and interest, does not infringe any copyright or other intellectual property right claimed by CJP in “Go Back Where You Came From” (First Series)” (“Go Back (First Series)”) which, upon information and belief, is an Australian reality television series produced by and copyrighted by defendant CJP.

2. “Borderland” was produced for Al Jazeera for broadcast on the Al Jazeera America (“AJA”) network. It consists of five episodes, the first of which will be aired on April 13, 2014; new episodes will be shown weekly. Al Jazeera owns all right, title and interest in “Borderland,” including worldwide copyright.

3. “Borderland” deals with one of our country’s most pressing problems: the immigration of undocumented individuals across the United States-Mexico border, who are drawn by the prospect of jobs in the United States. This question is debated on talk shows and in the halls of Congress. Even though most Americans have no personal contact or experience with immigration, many have firmly-held opinions on undocumented immigrants and border enforcement. “Borderland” is a documentary series that compels such Americans to confront the realities faced by those who try to enter the U.S. illegally.

4. The series focuses on six Americans who have volunteered to spend several weeks first learning about, and then retracing the life of, three specific, identified undocumented immigrants who died while trying to cross into the United States from Mexico. The participants represent an ethnic cross-section of Americans, all of whom have strong views about immigration

5. In the course of “Borderland,” the participants are first interviewed about their attitudes towards illegal immigration in the U.S. They are then taken to a specific location on the border of Mexico and Arizona, where many migrants die in the desert trying to reach Tucson. The participants are then split into three groups, each of which is assigned to uncover – and discover – the life of an immigrant who died in the desert. Each group is provided with only the name of the subject and the subject’s home town. “Borderland” asks the participants to find the story that matches the name and to engage in historical fact finding; specifically, to discover why

each of three undocumented immigrants sought to enter the United States and to experience what happened to each of the immigrants on his or her way to and across the border. The participants painstakingly retrace the very steps of their subjects, traveling from El Salvador, Guatemala and southern Mexico through Mexico to the U.S. border, and ultimately attempt to travel on foot from the border through hostile desert terrain to the nearest large U.S. city. In the last episode, the participants are interviewed about the impact of the experience (if any) on their attitudes relating to immigration.

6. Upon information and belief, “Go Back (First Series)” addresses the materially different migration problems that Australia has faced over the past two decades. Australia’s problems are driven not by employers with need for immigrant labor, as in the United States, but because Australia is viewed as a safe refuge by those who come from war-torn or poverty-stricken areas of Asia, the Middle East, and Africa. Many arrive as “boat people,” and hundreds have died at sea while attempting to reach the Australian mainland. Australia deports many illegal migrants, and places others in detention camps in Australia and on a remote island before deciding whether they can be admitted as refugees.

7. “Go Back (First Series)” is not a documentary and does not, as “Borderland” does, focus on the case on individual migrants. Rather, “Go Back (First Series)” is a reality television show. The focus is on “what would you do” if “you” were an illegal migrant to Australia. The series selects six white Australians, with no variation in ethnicity. They observe refugees living illegally in Australia and in detention camps, as well as one family from Africa that has been legally resettled. The participants are then required to give up their phones, identity papers and clothes. They board what appears to be a rickety boat and are put through a simulated “boat people” experience.

8. The participants are next sent to the countries from which many refugees happen to have fled: Malaysia, Jordan, Iraq, and the Democratic Republic of the Congo (DRC). During their observational visits, they are shown squalor and experience the generalized, omnipresent danger one would expect in those environments. The focus remains on what the participants would do if they had to flee these countries: how would they seek refuge in Australia? Finally, they are debriefed in a panel discussion and are questioned by an Australian audience.

9. In the weeks leading up to “Borderland”’s premiere, Al Jazeera has been aggressively promoting the series, with the goal of increasing media “buzz” and viewership.

10. Al Jazeera has received a letter and e-mail from CJP, in which CJP has claimed that “Borderland” infringes on CJP’s intellectual property in “Go Back (First Series),” and has threatened to take legal action to interfere with Al Jazeera’s broadcast of “Borderland.”

11. In fact, “Borderland” does not misappropriate any protected intellectual property in “Go Back (First Series).” The only common elements between the series involve matters that are not creative, but are in the public domain and that anyone is free to use: the fact that illegal immigration is an important current topic in the United States and Australia and that many people are opposed to or favor immigration in both countries; conventions of television programming, such as taking a group of ordinary people, putting them through challenges while being filmed, and interviewing them about the experience; and the ordinary tropes of storytelling, such as placing people with strong opinions and limited knowledge about an important subject face-to-face with the realities of the subject, and observing the manner in which they react to the plight of others.

12. The creative elements of the two series, in contrast, are distinctly different in all material respects. The focus of “Borderland” is discovering the life story of three specific,

individual migrants who died while trying to cross into the U.S., and retracing their steps from their homes to the Arizona desert. “Go Back (First Series),” in contrast, has nothing to do with retracing the lives of any specific individuals; rather, it merely offers its participants a window into a generalized, non-specific migrant experience through and experience that is more akin to “show and tell” than to historical fact-finding. While individual refugee cases are referenced in the “Go Back (First Series)” storyline, they in no way form the basis for the series, as the stories of the three deceased immigrants do in “Borderland.” “Go Back (First Series)” focuses on the clearly different situation of refugees from strife-torn countries.

13. The other creative aspects of the two series are different. The participants in the two programs are not similar. There is virtually no common dialogue, no common characters, and the plots and pacing of the shows are very different.

14. While both programs seek to humanize social issues, this process is not the intellectual property of CJP. Many great writers and artists seek to do the same thing.

15. CJP has made concrete threats that it will take legal action against Al Jazeera and the producers of “Borderland,” falsely claiming that “Borderland” misappropriates intellectual property rights in “Go Back (First Series).” Al Jazeera has invested many hundreds of thousands of dollars in the production and promotion of “Borderland.” CJP’s current and threatened interference in the broadcasting and promotion of the program by CJP will diminish the reputation of and public interest in the program, disrupt Al Jazeera’s broadcasting schedule and investment in “Borderland,” and cause irreparable injury to Al Jazeera.

16. Al Jazeera is entitled to a judicial declaration that “Borderland” does not infringe any copyright or other intellectual property right that CJP may claim in “Go Back (First Series).” Such a declaration is needed to clear “Borderland” of CJP’s claims of infringement, to allow Al

Jazeera to broadcast the series without fear of liability or injunction, and to fully resolve the actual, concrete controversy that now exists between the parties.

PARTIES

17. Plaintiff Al Jazeera is a Delaware corporation with its principal place of business in New York, New York.

18. Upon information and belief, defendant Cordell Jigsaw Production PTY Ltd is a limited liability entity, created and existing under the laws of Australia, and does business under the registered business name “Cordell Jigsaw Zapruder.”

JURISDICTION AND VENUE

19. An actual and justiciable controversy exists between Al Jazeera and defendant concerning whether the series “Borderland” infringes copyright and other intellectual property rights in “Go Back (First Series).” This Court therefore has jurisdiction over the subject matter of this action under the following statutes: 28 U.S.C. §§ 1331 and 1338; 28 U.S.C. §2201; and 17 U.S.C. § 101 *et seq.* In addition, the Court has jurisdiction over the subject matter under 28 U.S.C. § 1332 in that (a) the sole member of plaintiff is Al Jazeera America Holdings II, LLC, the sole member of Al Jazeera America Holdings II, LLC, is Al Jazeera America Holdings I, Inc., and Al Jazeera America Holdings I, Inc. is a corporation formed under the laws of Delaware and has its principal place of business in New York, (b) defendant is a citizen of Australia, a foreign state, and (c) the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

20. This Court has personal jurisdiction over defendant under N.Y. CPLR § 301 and/or § 302(a). Upon information and belief, CJP has regularly entered the United States and has negotiated with and solicited media companies, including companies headquartered in New York, to broadcast or exhibit films and television series which have been produced by or for

CJP; and such films and television series have been disseminated to and viewed by many residents of New York. Such programming has also been entered by CJP in competitions for awards that are administered and awarded in New York. For example, the documentary program “Immortal,” created by or for CJP, was broadcast on the Smithsonian Channel in the United States. The program was entered for and won the 33rd annual News and Documentary Emmy Awards presented at the Time Warner Center in New York. In 2012, the Second Series of “Go Back” was entered for and won the International Emmy, which was awarded in and delivered in New York City to Michael Cordell, a principal of CJP. Upon information and belief, CJP has also optioned the rights to produce a version of “Go Back” to a United States media company.

21. CJP has distributed a number of its programs to United States media companies and has derived substantial revenue from broadcast of those programs in the United States and more specifically in New York. For example, the program “JFK: The Smoking Gun,” created for CJP, was broadcast in the United States over the REELZCHANNEL cable network, and “Immortal” was broadcast in the United States over the Smithsonian Channel.

22. Upon information and belief, CJP derives substantial revenue from goods delivered or services consumed within New York State, and/or derives substantial revenue from international and/or interstate commerce.

23. Alternatively, the Court has personal jurisdiction over defendant under Fed. R. Civ. P. 4(k)(2), in that defendant is not subject to jurisdiction in any state's courts of general jurisdiction; and exercising jurisdiction over defendant is consistent with the United States Constitution and laws.

24. Venue is proper in this District under 28 U.S.C. § 1391, as (a) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is

the subject of the action is situated; or (b) if 28 U.S.C. § 1391(b)(3) applies, defendant is subject to personal jurisdiction in this District.

FACTS

25. “Borderland,” a multi-part documentary television series, was produced by Percipient Pictures, Inc., for broadcast by Al Jazeera on the Al Jazeera America (“AJA”) network. The series is a work made for hire and Al Jazeera owns all right, title and interest in “Borderland,” including worldwide copyright.

26. Al Jazeera owns and operates AJA, which has been distributed in the U.S. since August 2013. AJA is a Peabody award-winning news and information channel that is distributed via major cable and satellite carriers to over 50 million U.S. viewers. Among other forms of programming, AJA presents long-form documentaries that address the most pressing problems of American society.

27. “Borderland” is a new form of documentary. The show grapples with an issue of major interest to all Americans: undocumented immigration into the United States from Mexico by individuals drawn to the prospect of jobs in the United States. How to deal with this jobs-driven immigration is a central question in American society and politics, as the opening sequence of each “Borderland” episode makes clear.

28. All Americans have opinions, often strongly held, about the immigration problem, but only a handful of Americans – those living near the U.S.- Mexico border – have any firsthand experience with the dangers immigrants face, which include robbery and/or rape on the way to the border; death in the desert of Southern Arizona from thirst or exposure; attacks by drug smugglers; and arrest and detention by border patrol officers.

29. “Borderland” graphically illustrates the facts about immigration and illuminates the misperceptions that people have about the subject. It also shows the impact that confronting

reality can have on people's attitudes towards immigration, in a way viewers can understand both emotionally and intellectually. The series focuses on six Americans who volunteered to spend several weeks first learning about, and then retracing the life of, three specific, identified undocumented immigrants who died while trying to cross into the United States from Mexico. The participants represent an ethnic cross-section of Americans, all of whom have preconceived but strong views about immigration: a Republican political activist from Arkansas; an ex-Marine from Illinois who is now a conservative talk show host; an African-American fashion blogger from Nevada; an artist from New York; a Latino immigrant rights activist from Florida; and a farmer from Washington whose employees are all Hispanic.

30. The participants are first interviewed about their attitudes towards illegal immigration in the U.S. They meet local sheriffs and, farmers who must deal with the influx and dangers not only from immigrants, but armed drug smugglers who cross the border. They accompany church groups that place water in the desert for refugees. They go to the wall built along the Arizona-Mexico border.

31. They are then taken to an Arizona morgue where they are presented with the bodies of people who died in the desert trying to cross into the United States. The six are then split into three groups of two, each of which is assigned the task of uncovering specific historical facts about one of three immigrants who died while attempting to enter the U.S. One group goes to Mexico and meets the family of a young woman; another to Guatemala to meet the family of a boy who died; and the third to Iowa (where one woman found dead in the desert had lived in for nine years before being deported to El Salvador) and then to El Salvador to meet the woman's family.

32. In the later part of the series, the groups learn about the specific challenges that each of their subjects encountered by retracing the paths that their subjects took, from El Salvador, Guatemala and Mexico. They ride on top of the very cargo train that each of their subjects rode perilously through Mexico to a jumping-off point near the border, and ultimately enter the U.S. along the same desert routes taken by their subjects. The final episode will involve interviews of the participants as to the impact, if any, that the experience had on their views, and will also include experts in the field of U.S. immigration.

33. Upon information and belief, based upon a review of “Go Back (First Series)” episodes available on youtube.com, “Go Back (First Series)” addresses the significantly different problem of refugees and asylum seekers attempting to enter Australia. While U.S. illegal immigration is driven by the jobs available in the U.S., Australia’s problems stem from refugees seeking to enter Australia from war-torn or poverty-stricken areas of Asia, the Middle East, and Africa. Many arrive on poorly crafted watercraft and hundreds of migrants have died at sea while attempting to reach the Australian mainland. Most attempt to claim refugee or asylum status if they are able to enter Australia or a processing center set up by Australia on Christmas Island, a remote territory. A small number arrive in Australia as UN-certified refugees. The Australian government deports many illegal migrants.

34. Australia, unlike the United States, was a heterogenous, almost exclusively white country (excluding Aboriginal Australians) before the refugee problem arose. In fact, the country followed a “White Australia” policy until the 1970s, sharply limiting immigration from non-European sources. While immigration policy was thereafter liberalized, the Australian government has more recently taken a more restrictive approach in light of waves of people

seeking refugee or asylum status. The issue of refugee policy is today one of the most contentious issues in Australian society and politics.

35. Upon information and belief, “Go Back (First Series)” is not a documentary, but a reality television show intended to show how its participants might try to reach Australia were they refugees from a war-torn area. The program selects six white Australians, ranging from a self-avowed racist, to a woman whose property abuts a detention center, to a proponent of a liberal immigration policy. The six are broken into groups of two. They are then taken on a tour of migrants living illegally in Australia and in detention camps, and are introduced to one family from Africa that has been legally resettled. They learn from the migrants about the wars and civil strife that caused them to flee their home countries.

36. In the second stage of the program, the participants are required to give up their phones, identity papers and clothes, and are given the rations that a refugee might have if he or she were fleeing toward Australia by boat. The six are then loaded on what appears to be a rickety boat and head out to international waters, but are not told what will happen next. In the night, the boat begins to flood and then a fire is spotted. The passengers are rescued by a patrol boat, and then learn that the flood and fire were staged to give them a taste of what it would be like to be “boat people.”

37. In the third episode, the participants are sent to the countries from which migrants to Australia typically flee: Malaysia, a waystation for illegal refugees where the participants experience immigration raids; a Kenyan refugee camp; and finally the strife-torn countries of Jordan, Iraq and the DRC. The last episode of the series is presented as a panel discussion, in which the participants speak about how the experience affected their attitudes, and are questioned by an audience of ordinary Australians.

38. Upon information and belief, CJP produced a second series of “Go Back,” where six Australian celebrities with strong views on immigration, including politicians who enforced immigration restriction measures against refugees, lived with refugees for three weeks in Somalia, Afghanistan and Indonesia and saw the refugee detention center operated by the Australian government on Christmas Island, an Australian territory remote from mainland Australia. Because “Borderland” uses ordinary people as its participants, Al Jazeera understands that CJP’s claim of infringement involves only “Go Back (First Series).” However, if CJP does ultimately claim that “Borderland” infringes its rights in the Second Series of “Go Back (Second Series),” Al Jazeera will amend its complaint accordingly, and show that there is also no substantial similarity between the creative elements of the Second Series of “Go Back” and “Borderland.”

39. “Borderland” is scheduled to premiere on the Al Jazeera America network on April 13, 2014. It will have five episodes, each premiered weekly, and the final episode is intended to air in May 2012. Al Jazeera is aggressively promoting “Borderland,” with the goal of increasing media “buzz” and ultimately viewership of the series.

40. Ivan O’Mahoney is an award-winning documentary producer who was formerly a lawyer and a UN peacekeeper in Bosnia. He has produced and/or directed many documentaries shown on United States television channels, including “Baghdad High,” about teenagers in Iraq (HBO), “How To Plan a Revolution,” following democracy activists in Azerbaijan (BBC), and “Surviving Hunger, a film on famine in Ethiopia (CNN). O’Mahoney is the executive producer and co-writer of “Borderland.” He was also the director of “Go Back (First Series).”

41. Al Jazeera has received a letter from CJP, dated February 11, 2014, in which CJP asserts that “Borderland” misappropriates CJP’s intellectual property rights in “Go Back to Where You Came From.” A true copy of that letter is attached hereto as Exhibit 1.

42. On March 30, 2014, Nick Murray, an executive at CJP, sent an e-mail to David Harleston, General Counsel of Al Jazeera, in which Mr. Murray asserted that “Borderland follows the Go Back model closely,” that “We are now firmly of the view that Ivan O’Mahoney has appropriated our intellectual property,” and that there are “striking apparent similarities between our series and Borderland.” Mr. Murray further asserted that “[u]nless there is some sensible outcome that you can suggest, we need to take some other kind of action to prevent further damage to our interests and those of our investors in the original production of Go Back to Where You Came From,” and “[w]e cannot allow a former employee [referring to O’Mahoney] to improperly use our IP to make unauthorised versions of our programs.” A true copy of the Murray e-mail is attached as Exhibit 2 hereto.

43. Contrary to CJP’s assertion, “Borderland” does not misappropriate any protected intellectual property in “Go Back to Where You Came From.” The few common elements between the programs do not arise from authorial creativity. Rather, they arise from common, unprotected elements, including:

(a) Current events – the fact that both the United States and Australia face problems from illegal migration that have affected politics and opinions;

(b) Conventions of television programming – such as an opening episode in which each member of a small participant group is introduced, later episodes that put the participants through arduous real-life challenges while they are filmed, periodic

interviews of the participants about their feelings and reactions, and a final episode where the entire group is debriefed once the challenge is completed; and

(c) Standard tropes and scenes à faire of storytelling – such as confronting people with strong views about a subject about which they have limited knowledge, and examining whether the real-life experience has changed their opinion.

44. CJP does not own current events, the conventions of television programming, or the standard devices of storytelling. While both “Borderland” and “Go Back (First Series)” draw from such elements, those elements are in the public domain and free for all to use. Use of these elements in “Borderland” does not misappropriate any intellectual property CJP may claim in “Go Back (First Series).”

45. The creative elements of the two series, in contrast, are distinctly different in all material respects. “Borderland” focuses on three specific, identified migrants who died while trying to cross into the U.S. and whose remains were identified in an Arizona morgue. The central theme of the show, as is stated in the program, is “We’ve given them a name. Now you must give them a story.” The underlying question of “Borderland” is: who are these specific individuals and why did they try to come to the U.S.? The participants are tasked with uncovering historical facts in order to learn what drove each immigrant to take a journey so dangerous that it eventually ended in death. Unlike “Go Back (First Series)” the participants include Americans who are themselves from historically oppressed groups: an African-American woman and a Latino woman.

46. The participant groups meet family members of the subjects in their home countries of El Salvador, Guatemala and Mexico to learn why they, and so many others, have risked their lives to enter the U.S. The participants then travel from these countries, across the

length of Mexico, to the border, retracing the very steps that their subjects took. They try to travel from the border by foot to reach Tucson, on paths passing near where their subjects were found dead, and experience for themselves the specific dangers that that their individual subjects faced in the desert.

47. “Go Back (First Series),” in contrast, does not focus on discovering or establishing historical facts or reliving the stories of individual migrants who died while trying to enter a country. Rather, participants are sent to live in the conditions in the home countries and countries of first refuge of refugees generally, to understand what might push people to seek asylum in Australia. The underlying question is: if you lived in one of these distressed countries, would you try fleeing to Australia and how would you do it?

48. For example, three of the participants are sent to live for a week in a refugee camp in Kenya, during which they have to wait hours in line for food, and learn about the crime and violence in the camp. Two of the three then travel to the DRC, under U.N. peacekeeper armed protection, to learn about the chaotic, squalid and dangerous conditions there.

49. Three others go to Jordan, which has taken in many thousands of refugees from the violence in Iraq. They visit a hospital that treat Iraqi bomb victims; and are then flown to Iraq to see firsthand the situation, under the protection of U.S. armed forces. They receive a security briefing from a U.S. general who cannot say that Iraq is safe for return. The focus of the episodes of “Go Back (First Series)” is not on individual cases, but on showing the conditions that would force people to leave their home countries and seek refuge in Australia. While individual cases are referenced in “Go Back (First Series),” they in no way form the basis for the series, unlike the stories of the three deceased immigrants in “Borderland.” Because none of the Australians have previously encountered refugees and illegal migrants as people, one group of

participants is introduced to a family that arrived as legal refugees in Australia and are being resettled. A short segment in a later episode shows these Australians meeting relatives of the refugees in Kenya and bringing them news of their Australian kin. Another group of participants meets four Iraqis who illegally migrated to Australia, and later meets their relatives who are still living in a refugee camp in Jordan. However, unlike “Borderland,” the participants do not try to discover the “story” of the initial individual refugees from their relatives because the refugees have themselves explained why they came to Australia.

50. Put simply, the subjects in “Go Back (First Series)” provide little more than a broad overview of Australia’s immigration problem, and do so in the most general terms -- a worthwhile endeavor, to be sure, but materially different from the specific historical fact-finding in which the participants of “Borderland” engage.

51. Moreover, the other storyline that drives “Borderland” is absent from “Go Back (First Series).” The second half of “Borderland” shows the group participants as they make the voyage that “their” three immigrants made, through Central America and to the border. One episode shows the groups trying to enter the United States as their subjects did. It shows the dangers of the Sonoran desert -- with blazing days and freezing nights and rugged terrain -- that the three immigrants faced. There is nothing comparable in “Go Back (First Series).”

52. All other creative aspects of the two programs are distinctly different. The participants in the two programs are not similar, other than having opinions on immigration that span the spectrum of popular views in their respective countries. There are no minority participants in the Australian program, whereas the participation of an African-American and a Latino in the U.S. program gives an important perspective that is unique to the multi-cultural

United States. There is no or virtually no dialogue in common between the programs. There are no common creative characters. The pacing and plotting of the shows is clearly different.

53. Finally, while both programs seek to provide insight into the respective countries' "immigration problem," this abstract theme is not something that copyright protects.

Humanizing social issues, showing that readers and viewers share the same feelings and goals as people commonly thought of as inferior, and changing prejudices and opinions by showing us the world as it really is are themes that can be found in the works of Charles Dickens, Mark Twain, Upton Sinclair, and many other creators. CJP has no monopoly on these themes.

54. Al Jazeera has invested hundreds of thousands of dollars in the production and promotion of "Borderland." CJP's interference in the broadcasting and promotion of the program, including its current claims of infringement and its threat of a lawsuit seeking to enjoin the dissemination of "Borderland," will diminish the reputation and public interest in the program and cause irreparable injury to al Jazeera.

55. As shown above, CJP has made concrete threats that it will take legal action against Al Jazeera and the producers of "Borderland," based on a claim that "Borderland" misappropriates intellectual property rights in "Go Back (First Series)." Al Jazeera reasonably believes that CJP may withhold legal action, including an attempt to obtain injunctive relief, until just before "Borderland" premieres, in order to create maximum disruption of the promotion and programming of "Borderland" and maximum injury to Al Jazeera.

56. In light of these facts and impending irreparable injury, Al Jazeera seeks, and is entitled, to a judicial declaration that "Borderland" does not infringe any copyright or other intellectual property right that CJP may claim in "Go Back (First Series)."

FIRST CLAIM FOR RELIEF
(For Declaratory Judgment of Non-Infringement)

57. Plaintiff repeats and realleges the allegations of paragraphs 1 through 56 of this Complaint as though fully set forth herein.

58. The facts and circumstances alleged above show that CJP's claim that the series "Borderland" infringes intellectual property rights, including copyright, owned by CJP in "Go Back (First Series)," have created a real and reasonable apprehension of liability on the part of Al Jazeera, and that CJP has engaged in a course of conduct that has brought it into adversarial conflict with Al Jazeera.

59. The facts and circumstances alleged above further show that the controversy between Al Jazeera and CJP is sufficiently immediate and real to warrant the issuance of a declaratory judgment of non-infringement.

60. The facts and circumstances alleged above further show that the Court can grant complete relief in this action and fully resolve the controversy between the parties. The Court may view the "Borderland" and "Go Back (First Series)" programs, and, after having viewed both series, determine as a matter of law (a) which elements of "Go Back (First Series)" are protected by copyright law and which are not so protected, and (b) whether "Borderland" is or is not substantially similar to the protected aspects of "Go Back (First Series)," both in specific elements such as plot and character, and as to overall concept and feel.

61. If the Court determines, as Al Jazeera is prepared to show, that no reasonable trier of fact could find that "Borderland" is substantially similar to the protected aspects of "Go Back (First Series)," the Court should declare that "Borderland" does not infringe any intellectual property rights that CJP may claim in "Go Back (First Series)."

62. A declaration that “Borderland” does not infringe CJP’s claimed rights in “Go Back (First Series)” will permit “Borderland” to be promoted, marketed, distributed, and exhibited without fear of disruption by CJP’s false claims of infringement. Such a declaration will provide Al Jazeera with complete relief, will be conclusive of the dispute between the parties, and will terminate the insecurity that has been created by CJP’s claims of infringement and threats of litigation.

63. The facts and circumstances alleged above establish that the Court has jurisdiction to issue a declaratory judgment of non-infringement in this action.

WHEREFORE, plaintiff Al Jazeera America, LLC, demands judgment in its favor against defendant Cordell Jigsaw Production PTY Ltd. as follows:

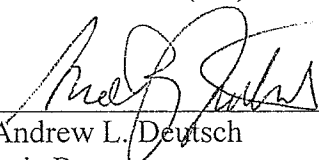
a. Ordering, determining, and adjudging that the series “Borderland” does not infringe any intellectual property rights, including copyright, that said defendant may claim in the series “Go Back to Where You Came From (First Series),”

b. Awarding to plaintiff and against defendant plaintiff’s full costs of this litigation, including a reasonable attorney’s fee as provided for in 17 U.S.C. § 505; and

c. Awarding plaintiff such other relief as the Court may deem just and proper.

Dated: New York, New York
April 7, 2014

DLA PIPER LLP (US)

By: 
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Attorneys for Plaintiff Al Jazeera America, LLC

Exhibit 1

Aja Byrd

Subject: FW: Potential IP Breach

On Feb 12, 2014, at 2:22 PM, "Nick Murray" <nick@cjz.com.au> wrote:

Dear Mr Al Shihabi

CJZ is the production company behind the Australian documentary series *Go Back to Where You Came From* ("Go Back"). Go Back has won an Emmy and 2 Rose d'Or Awards, the UN Media Peace Award, and numerous Australian awards. It has been re-made as a format in numerous countries.

We have just become aware of a documentary series to be broadcast in March 2014 on Al Jazeera America entitled Borderland. The material we have seen from the series indicates that it contains a number of the unique format elements from our series Go Back. Indeed the promo uses language to describe the series which is almost exactly the same as the opening tease from our program, making the promo frighteningly similar to the descriptions of our program. It would seem that the promo and by implication, the series, is closely based on our own production.

Borderland is being produced by Ivan O'Mahoney a partner in the co-producer In Films. Ivan is a former employee of CJZ and was the series director of Go Back. Prior to leaving to establish his own production company, he was assisting us in coordinating some of the international versions of the program and obviously had access to our format bible.

Perhaps it is only the promotion for Borderland which is based on our show and Mr O'Mahoney has done nothing wrong, but we are very concerned about this development. The similarities are so strong that parties with whom we have been discussing US format versions of Go Back have raised the existence of Borderland with us. It has the potential to destroy the commercial value of Go Back in the North American market. Our financing partners (which include the broadcaster SBS Australia and the Australian government funding agency, Screen Australia) are very concerned about the financial impact of Borderland being confused with Go Back.

We also know that Al Jazeera America is aware of our series. The distributor of Go Back has been discussing the sale of both the Go Back format and the tape of the Australian series with Al Jazeera America. Indeed Paul Eedle from Al Jazeera has named our series as one of 2 programs he wishes he commissioned.

Can you provide us with some material to alleviate our fears concerning the proposed broadcast of Borderland? If we have not heard from you by 5pm on Wednesday 12th February (US Eastern), we will brief our New York based attorneys to pursue the matter.

Yours sincerely

Nick Murray

Nick Murray
Managing Director

<image.png>

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Exhibit 2

Aja Byrd

Subject: FW: Borderland / Go Back to Where You Came From

From: Nick Murray (CJZ) [<mailto:nick@cjz.com.au>]
Sent: Sunday, March 30, 2014 8:39 PM
To: David Harleston
Cc: Ehab Alshihabi
Subject: Borderland / Go Back to Where You Came From

Dear David,

We are getting more alarmed daily at the information we can now access about Borderland.

As I mentioned last week, we were contacted by a highly regarded Australian TV industry figure who has seen Borderland and described it as "a copy" of Go Back to Where You Came From. That person was extremely surprised at how similar the programs are.

A recent article (attached below) is even more disturbing - it shows that Borderland follows the Go Back model closely. The article is published on the Al Jazeera America website. Strangely, Ivan O'Mahoney is not credited as having been involved in Go Back, despite him being the director of the most internationally awarded Australian TV series ever. I wonder why this is?

We are very disappointed that Al Jazeera has chosen not to respond to our complaint after your review, despite the cordial discussions between you and me.

We are now firmly of the view that Ivan O'Mahoney has appropriated our intellectual property. His actions have already caused us loss at a sensitive time in our discussions about a US version of our program, and the broadcast of the program by Al Jazeera America will cause us further damage. The investors and commissioning broadcaster of the original Go Back series are very concerned about the actions of Mr O'Mahoney in producing Borderland for Al Jazeera and the striking apparent similarities between our series and Borderland.

In Films and Ivan O'Mahoney do not have clear title to grant Al Jazeera America broadcast rights in what is effectively a sequel and/or format production of our program. Unless there is some sensible outcome that you can suggest, we need to take some other kind of action to prevent further damage to our interests and those of our investors in the original production of Go Back to Where You Came From.

As you know, a producer's reputation and ability to earn future income relies on its ownership of the IP in past productions. We cannot allow a former employee to improperly use our IP to make unauthorised versions of our programs.

This is a source of ongoing angst within our company. It is grossly unfair that we are being treated with such disrespect. It can not reflect well on Al Jazeera for it to shield Mr O'Mahoney or to continue with the broadcast of the program as scheduled without a resolution of this dispute.

I look forward to hearing from you with a proposal.

Kindest regards

Nick

Nick Murray
Managing Director



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How ‘Borderland’ directors used a morgue to tell migrants’ stories

by Sheri Jennings March 11, 2014 12:37PM ET

Filmmakers Ivan O’Mahoney and Nial Fulton focused on stories behind the statistics for an original documentary series

Topics:

Culture

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While crossing train tracks in Mexico, the production crew for “Borderland” films Alison Melder, one of six participants in the series, to tread in the footsteps of migrants who attempted to cross the border.

“Borderland” premieres Sunday, April 13 at 9E/6P

When award-winning Sydney-based documentary filmmakers Ivan O’Mahoney and Nial Fulton heard about a desert morgue in Pima County, Ariz., that has held the bodies of some 5,500 migrants who died attempting to cross into the United States over the past 15 years, they were convinced they had found a meaningful way to illustrate an ongoing human tragedy.

“It felt like the morgue is the third act of any story,” Fulton explained of their decision to abandon some conventional storytelling techniques and use the morgue as the opening scene of “Borderland,” the first original series to premiere on Al Jazeera America. “We were desperately trying to find a way into the story — a more immersive way.”

The duo brought the idea to Al Jazeera executives and said, “‘Look, we want to do a series on immigration, and we want to set it in a morgue in Arizona.’ It just seemed like such a ludicrous proposition at the time,” said

Fulton. But that idea has become “Borderland,” which is premiering in a year when immigration promises to be one of the most debated and divisive issues in the U.S.

They decided to start with the case files in the morgue and retrace the journeys of three migrants who perished attempting to come to the United States. To do so, they tasked six Americans with following the migrants’ journeys. To make the story relatable, the filmmakers said participants on the trip faced the same dangers as the migrants whose stories they were charged with retelling.

“We wanted to expose them and immerse them with the families and the people that lived on the other side [of the border], including relatives and friends, and include random interaction on the way,” explained O’Mahoney. “If you manage to make a personal connection to a migrant, it becomes a meaningful part of your world.”

The “immersive” approach helps counter what O’Mahoney called “viewer fatigue” derived from coverage focusing primarily on the din of Washington policymakers, where big issues “never quite get resolved.”

Becoming immersed was a specialty of both directors even before they joined forces in 2013 to launch In Films. O’Mahoney shot the 2008 HBO documentary “Baghdad High,” which follows an academic year of four teens in a war-torn country; “How to Plan a Revolution” kept him close to peaceful democracy activists trying to shake things up in Azerbaijan in 2005. Fulton garnered storytelling expertise through projects often focusing on retelling real-life dramas, such as 2009’s “Solo” (also known as “Solitary Endeavor on the Southern Ocean”), about an Australian adventurer’s kayak crossing of the Tasmanian sea.

All provided useful skills for “Borderland,” a film shot in Arizona and Des Moines, Iowa, as well as in locations in Guatemala, Mexico and El Salvador.

With security and other issues to tackle, Fulton and O’Mahoney needed more hands on deck and contacted old friends Darren Foster, Jeffrey Plunkett and Alex Simmons, also award-winning filmmakers, with Los Angeles-based Muck Media to co-produce the project.

Each took on one migrant’s story. Foster, who has documented migrant routes as a journalist, connected with his friends’ approach. “If you can get to the humanity of any story, people will see beyond their personal viewpoints,” he said of the Americans who were dropped into the migrants’ shoes.

And it worked. “They certainly understood we are talking about human beings and lives, not statistics,” Foster explained.

Casting was a balancing act, O’Mahoney said. “Of course you can never get the slice of such a large country through six people, but [we hoped] the audience can say, ‘Oh, I have an uncle or aunt like that’ and help connect the issue we are getting across.”

Still, filming about a hot-button topic with people of divergent beliefs was by no means drama-free.

“Arguments happened quite a lot, and from a production point of view you can’t have the same argument rehearsed,” Fulton said, adding that even the most hard-line of participants ended up “crying his eyes out.”

As the four-part series goes to air, O’Mahoney — who has a degree in international law, studied journalism at Columbia University and did a stint as a U.N. military policeman in Bosnia — said his background gave him a “firsthand taste of what it was like for people to flee war zones.” He understood that. What surprised him was that each generation in Latin America tends to follow the previous one in leaving for the United States, despite the dangers involved.

“It’s ‘Mom went, Dad went, sisters went ... when will I go too?’ Very often the question comes up, ‘Why don’t they come legally?’ That isn’t the mindset. You just go north.”

Fulton, who grew up in Enniskillen, Northern Ireland, near the border with the Republic of Ireland, said he is naturally drawn to border issues. “What changed me personally was the kind of heartbreak. What really hit me is it’s so ingrained in the national psyche; even though they know the risks, they’re still willing to take them. We should all be angry with what’s happening there.”